

IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE
DISTRICT OF TENNESSEE AT NASHVILLE

KAYLA GORE; L.G.; and K.N.,

Plaintiffs,

vs.

Case No. 3:19-CV-00328

WILLIAM BYRON LEE, in his
official capacity as Governor
of the State of Tennessee; and
LISA PIERCEY, in her official
capacity as Commissioner of the
Tennessee Department of Health,

Defendants.

Videoconference Deposition of:

KAYLA GORE

Taken on behalf of the Defendant
April 13, 2020

Elite Reporting Services
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R. MICHELLE SMITH, RMR, LCR, CCR, FPR, CLR
Nashville, Tennessee
(615)595-0073

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1 A. Not any attempts specifically for my gender 01:34:21
2 marker, because it's currently not allowed by law, 01:34:26
3 but I have made attempts to change my name on my 01:34:30
4 birth certificate. 01:34:34
5 Q. And have you been successful? 01:34:35
6 A. No, I have not. 01:34:41
7 Q. Okay. Tell me -- tell me how you've 01:34:43
8 attempted to change the name on your birth 01:34:47
9 certificate, what steps have you taken? 01:34:50
10 A. The process -- the process here is there is a 01:34:52
11 form that you can get from the local health 01:34:56
12 department, you fill that form out, you accompany 01:34:59
13 that form with a money order for the actual baby 01:35:02
14 birth certificate, you mail that to the Tennessee 01:35:07
15 Department of Records in Nashville, and then they 01:35:09
16 return you your updated birth certificate within 45 01:35:14
17 days. Or you can physically take it to the 01:35:20
18 department of records if you're in the area of 01:35:24
19 Nashville. 01:35:26
20 Q. So have you -- have you completed the form 01:35:26
21 and mailed that to the Office of Vital Records? 01:35:30
22 A. Yes, ma'am, I have. 01:35:35
23 Q. And when did you do that? 01:35:36
24 A. October of last year. 01:35:37
25 Q. Have you -- have you had any communication 01:35:48

1 with that office since you sent that form? 01:35:53

2 A. No, I have not. 01:35:56

3 Q. Have you tried to inquire why you haven't had 01:36:07

4 a response since October? 01:36:10

5 A. No, I haven't. 01:36:12

6 Q. Have you made any other attempts to change 01:36:26

7 any other information on your birth certificate? 01:36:29

8 A. No. 01:36:32

9 Q. All right. Looking at Paragraph 81 of the 01:36:33

10 amended complaint, it has a list of your different 01:36:48

11 community advocacy efforts, and I wanted to go 01:37:00

12 through those with you. It says presently you are 01:37:04

13 the southern regional organizer with TLC@SONG. 01:37:06

14 What -- how long have you been in that position where 01:37:11

15 you're the southern regional -- a southern regional 01:37:14

16 organizer? 01:37:19

17 A. A little over a year. 01:37:21

18 Q. Okay. And what does that actually involve, 01:37:22

19 what do you do as a southern regional organizer for 01:37:31

20 that organization? 01:37:36

21 A. I work regionally in the south with LGBTQ 01:37:36

22 people around the missions and values of the 01:37:43

23 transgender law center and Southerners on 01:37:43

24 New Ground. 01:37:49

25 Q. Okay. What might that -- what does that look 01:37:49

1 presenting identification that conflicted with your 02:11:11
2 gender identity? 02:11:15

3 A. Can you be more specific? Are you referring 02:11:16
4 to like work or personal life or? 02:11:27

5 Q. Well, really anything. I mean 93 goes on to 02:11:32
6 say for example you've had -- let's just pick this 02:11:35
7 apart. "Ms. Gore has had to present her birth 02:11:38
8 certificate in the context of securing employment. 02:11:41
9 Because the birth certificate inaccurately states 02:11:47
10 that she is male, providing this document has led 02:11:51
11 directly to Ms. Gore being "outed" as a transgender, 02:11:54
12 and being subjected to awkward, deeply personal, and 02:11:56
13 invasive questions by prospective employers." 02:12:01

14 So let's just start with employers. What 02:12:04
15 employers have required you to present a birth 02:12:08
16 certificate, or potential employers? 02:12:12

17 A. One particular -- one particular employer was 02:12:17
18 Silky O'Sullivan's, which is a bar and grill located 02:12:25
19 in Memphis, Tennessee. I was asked to present my 02:12:30
20 birth certificate. This was after the -- after the 02:12:33
21 interview where I was offered the job. And there 02:12:36
22 were people present who worked there that I had 02:12:43
23 previously worked with who knew of my transgender 02:12:47
24 status which I felt -- which I felt caused the hiring 02:12:52
25 manager to ask me for my birth certificate to verify 02:13:05

1 what people had told him.

02:13:06

2 They didn't deny me the job, but I felt -- I
3 felt like all of my information had been told to the
4 entire staff without my knowledge because most of
5 them --

02:13:10

02:13:13

02:13:17

02:13:22

6 THE REPORTER: One moment, this is the
7 court reporter. Can you hear me?

8 (Off record.)

9 BY MS. SHEW:

10 Q. All right. So Ms. Gore, we're going reflow a
11 little ground here. So I think you heard the court
12 reporter say where her transcript leaves off.

13 You, as I understand it, there were, you
14 believe -- you had worked at Silky O'Sullivan's
15 before, there were people who knew of your
16 transgender status, and you believe they told the
17 manager to ask for your birth certificate; is that
18 correct?

02:20:27

02:20:27

02:20:41

02:20:43

02:20:45

02:20:49

19 A. No, I had worked with people at a different
20 job prior to that, who are currently working there,
21 and I felt like I was outed by that employee. At the
22 previous job I was their supervisor, they didn't
23 really like me, and I wasn't speculating because I
24 got to know some of the people who were in that group
25 the day I got hired, and they divulged that a

02:20:49

02:20:53

02:20:58

02:21:05

02:21:07

02:21:11

02:21:14

1 conversation that was had that I was transgender. 02:21:21

2 Q. Okay. 02:21:23

3 A. And that that employee told people, they 02:21:24

4 talked, but they didn't necessarily say that the 02:21:30

5 manager was told to ask for my birth certificate. 02:21:33

6 But I think that was the result of them outing me. 02:21:36

7 And that was the way for him to confirm. 02:21:43

8 Q. Okay. Where did you -- where did you work 02:21:49

9 with that person prior? 02:22:03

10 A. FedExForum. 02:22:05

11 Q. We'll go through that. 02:22:14

12 A. Okay. 02:22:15

13 Q. Go ahead. 02:22:16

14 A. I was just going to say that it was at the 02:22:19

15 FedExForum, but I worked for a private restaurant, 02:22:25

16 privately owned restaurant, a family-owned restaurant 02:22:28

17 inside of the FedExForum. 02:22:33

18 Q. Okay. What was that restaurant? 02:22:35

19 A. Rendezvous. 02:22:44

20 Q. All right. Any other -- any other employers 02:22:47

21 that have required you, or even asked you to give a 02:22:54

22 birth certificate? 02:23:01

23 A. Yes. The FedExForum required it for security 02:23:02

24 reasons. I wasn't employed by them, but for security 02:23:18

25 reasons I have to, required that and my Social to be 02:23:26

| | | |
|----|---|----------|
| 1 | able to access the event arena. | 02:23:31 |
| 2 | Q. Okay. Did that, did that cause any problems | 02:23:35 |
| 3 | for you, the presenting it to the FedExForum? | 02:23:38 |
| 4 | A. I can't necessarily say that it was related | 02:23:42 |
| 5 | to my birth certificate, so I can't say that the | 02:23:59 |
| 6 | problems that I did have were directly related to me | 02:24:02 |
| 7 | having to submit that document. But most of my | 02:24:07 |
| 8 | problems were around my gender identity. | 02:24:11 |
| 9 | Q. What problems were those? | 02:24:14 |
| 10 | A. I was a supervisor for Rendezvous for one of | 02:24:17 |
| 11 | their fans, which meant I would have to handle their | 02:24:27 |
| 12 | money. And the people in the money room would give | 02:24:30 |
| 13 | me problems and they would communicate over a | 02:24:33 |
| 14 | speaker, very loud speaker through thick glass. And | 02:24:40 |
| 15 | on several occasions as I would walk out of the cash | 02:24:46 |
| 16 | room where they didn't think I could audibly hear | 02:24:49 |
| 17 | them, I could hear them misgendering me if maybe one | 02:24:52 |
| 18 | time I left something in the money room and they | 02:24:56 |
| 19 | would say can you get "him, he" left something. And | 02:25:00 |
| 20 | these people -- I think these folks would have access | 02:25:10 |
| 21 | to that information because that was like a part of | 02:25:16 |
| 22 | the security, part of how that was needed for me to | 02:25:18 |
| 23 | have to submit those two documents, security to get | 02:25:23 |
| 24 | into the building, as well as I was handling the | 02:25:27 |
| 25 | money for one of the fans. | 02:25:30 |

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1 Q. So you believe the FedExForum would have
2 given those employees your birth certificate or
3 Social Security information?

4 A. Those employees were -- were supervisors,
5 they were basically supervisors of that operation.

6 Q. But you believe the FedExForum would have
7 given them your birth certificate and/or Social
8 Security information?

9 A. I can't necessarily say yes or no, because I
10 don't know. But I do know that questions I asked
11 about why these things were requirement -- required
12 for a company that I didn't necessarily work for,
13 these are questions I asked my supervisors at
14 Rendezvous, and they explained to me why these
15 documents were required. And one of those was for
16 the security of the arena because they hold -- they
17 hold sporting events at the FedExForum here with very
18 high profile people that they want to protect. And
19 it's just like a security thing ever since -- I guess
20 they would relate it back to 9/11.

21 And then also because I was a supervisor
22 and I would be responsible for anywhere from five to
23 fifteen thousand dollars an event, I had to have
24 those documents. And that the people in the money
25 room would have copies of my identification with my

photo on it, my birth certificate and my Social on bio to verify I was the person who was supposed to pick up and drop off money.

Q. And you believe those people actually had copies of your birth certificate and your Social Security documents?

A. That's how it was explained to me, that there will be copies for the security people and for the money-handling people. And it was explained to a group of employees, and these were the questions that I had aside from the group.

Q. Okay. Let me -- we may have to go mute here in a minute. So any other employers who either requested or required you to give a copy of your birth certificate?

A. I can't recall.

Q. Okay. No --

A. I can't recall.

Q. Okay. Let's see. At Paragraph 93 it also said that you were subjected to awkward, deeply personal and invasive questions by prospective employers. What types of awkward, deeply personal and/or invasive questions do you recall?

A. Questions about surgery, about the process of transitioning, about my sexuality, and that's it.

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1 Q. You had employers actually ask you these 02:30:16
2 questions? 02:30:19
3 A. Not necessarily like the higher-up managers, 02:30:20
4 but my immediate supervisors. And these would be 02:30:25
5 things that would like come up in conversations that 02:30:28
6 people felt for some reason were appropriate to 02:30:32
7 ask. 02:30:38
8 Q. Who -- who would ask you these questions? 02:30:38
9 I'm not clear on who was asking the questions. 02:30:43
10 A. Like immediate supervisors, in a 02:30:46
11 conversational way. 02:30:55
12 Q. Did you ever feel like you didn't -- you 02:31:18
13 didn't get a job because you wouldn't participate in 02:31:23
14 those kinds of conversations? 02:31:28
15 A. It was never during like a hiring process. 02:31:35
16 It would be after I had obtained the job, and these 02:31:40
17 would be general conversations. I have felt 02:31:43
18 uncomfortable in those work environments after, 02:31:46
19 feeling like I was obligated to answer those 02:31:50
20 questions, and that it -- that it was tied to my 02:31:53
21 employment at those places. 02:31:57
22 Q. Did you ever complain to a supervisor or 02:31:59
23 somebody in human resources department about that? 02:32:03
24 A. Yes. 02:32:05
25 Q. When -- when was that, describe that for 02:32:06

1 me. 02:32:10

2 A. That was when I was working at Silky 02:32:10

3 O'Sullivan's, I had been there a little over a year 02:32:23

4 and I was having some issues with some of my male 02:32:25

5 coworkers basically jonesing me. And I spoke to my 02:32:27

6 supervisor about it, the same supervisor who asked 02:32:35

7 for my birth certificate when I got the job, and he 02:32:43

8 basically sided with the guys and was like, "I don't 02:32:45

9 see what the problem is, this is what happens, you 02:32:51

10 know, when you work at a bar and grill. You know, 02:32:56

11 this is just the atmosphere." Kind of a if you 02:33:00

12 can't stand the heat, get out of the kitchen type of 02:33:06

13 thing. 02:33:11

14 Q. Are there any other occasions when you 02:33:11

15 complained to a supervisor or a human resources 02:33:15

16 person, whether at that job or at any other job? 02:33:18

17 A. No. 02:33:29

18 Q. Okay. Okay. Any other employers that 02:33:30

19 either -- have we covered every employer that's 02:33:33

20 requested or required that you present a birth 02:33:36

21 certificate? 02:33:40

22 A. That's it. 02:33:48

23 Q. Is there any place that you simply decided 02:33:48

24 not to apply because you didn't want to present a 02:33:52

25 birth certificate? 02:33:56

1 A. Yes. That was really tied to my strategy in 02:33:59
2 obtaining a job was trying to find people who owned 02:34:10
3 their own businesses. Because in addition to them 02:34:14
4 paying more, and more benefits, they were more 02:34:18
5 relaxed on documentation, and they would really only 02:34:23
6 require maybe a Social and identification, or just 02:34:31
7 identification. 02:34:38

8 Q. Okay. So you -- you had a strategy of 02:34:39
9 applying at smaller companies or family owned 02:34:43
10 companies I think you told us that; right? 02:34:46

11 A. Yes, ma'am. 02:34:49

12 Q. Okay. Was there any -- any place that you 02:34:50
13 can recall that you just thought that would be a good 02:34:58
14 place to work, I would like to work there but I'm 02:35:07
15 just not even going to apply because they're going to 02:35:11
16 ask for my birth certificate or they'll make me give 02:35:15
17 them my birth certificate? 02:35:17

18 A. Yes, there were places like that. 02:35:19

19 Q. Okay. What places? 02:35:21

20 A. Walgreens, Kroger, there were some different 02:35:22
21 warehouses that I didn't apply to, like UPS. 02:36:07
22 LeBonheur was a job that I didn't apply to. 02:36:17

23 Q. What job were you applying for at -- or you 02:36:21
24 didn't apply for but you wanted to apply for but 02:36:26
25 didn't at LeBonheur? 02:36:29

A. There was a -- they named it like an internship, it was a type of internship with one of their community advocacy programs.

Q. Okay. Any other employers? We have Walgreens, Kroger, UPS, LeBonheur, any others?

A. The FedExForum, there were some jobs that just in conversation of working there and talking with some of the actual FedExForum employees, that I just didn't want to apply for because I felt like the whole building would have my information at that point.

Q. Okay. Any others that you just didn't apply?

A. No.

Q. Okay. At Paragraph 94 of the amended complaint it says "Ms. Gore is personally aware of the high incidence of violence and harassment directed at transgender persons as well as the high rates of employment and housing discrimination faced by transgender people, particularly transgender women of color like herself, in Tennessee."

You've described several -- several or maybe all of these items. My question is, is any other, it says you are personally aware, violence, harassment, employment and housing discrimination. Anything else that is within your personal knowledge,

1 didn't want to apply for, services you didn't want to 03:13:08
2 apply for, money that you didn't want to apply for, 03:13:12
3 specific ones that you have not applied for because 03:13:15
4 you did not want to show a birth certificate. 03:13:18

5 A. School, I did want to go back to school 03:13:21
6 because Tennessee had a, I believe it's called the 03:13:32
7 Tennessee reconnect program, where they pay for two 03:13:34
8 years of college for individuals who dropped out of 03:13:37
9 school or did not complete their program. I wanted 03:13:42
10 to enter back into school through that program and I 03:13:47
11 had to submit my birth certificate and I just didn't 03:13:50
12 feel -- I didn't feel whole submitting that, so I 03:13:54
13 didn't enter into that program. 03:13:58

14 And I'm not 100 percent that's the name of 03:14:00
15 it, but it's a program that's funded by the State to 03:14:04
16 help people who were in college, didn't complete it, 03:14:10
17 get back in college and be able to have it fully paid 03:14:14
18 for. 03:14:17

19 Q. Okay. Did you have any reason to believe you 03:14:17
20 would be denied because of your transgender status? 03:14:21

21 A. I don't -- the college that -- the college I 03:14:30
22 was interested in, I don't think they would have 03:14:34
23 denied me. They were very interested in me being a 03:14:36
24 student at that college. However, I felt as though I 03:14:42
25 wasn't -- I wasn't prepared mentally to go through 03:14:48

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1 that process because I didn't know what the outcome
2 would be, or what their process would look like as
3 far as how much discrimination am I going to have to
4 face throughout this, or how many hurdles are going
5 to be put in front of me because I am transgender.

6 Q. Okay. But -- but going back to my original
7 question, I understand the answer you've given, but
8 you didn't have a reason to believe that the State of
9 Tennessee was just going to say we're just not
10 giving, we're just not going to give Kayla Gore that
11 money because Kayla Gore is a transgender woman?

12 A. I don't know the answer to that, because I
13 don't want to speculate what other people would do.
14 But just by being a resident of the Tennessee -- of
15 the State of Tennessee for 31 -- 33 years of my life,
16 yeah, I didn't think that I had a great chance.

17 Q. Because you are a transgender woman, or for
18 another reason?

19 A. Because I'm transgender.

20 Q. Okay. So and I know the program you're
21 talking about, and I think it may be called -- I
22 think you may be right, it's called something like
23 Tennessee reconnect, or but you, you believe that the
24 persons considering the Tennessee reconnect program
25 would have discriminated against you and denied you

1 that funding because you are a transgender woman? 03:16:26

2 A. I don't want to say never, because -- okay. 03:16:29

3 Thank you. I don't want to say that they would have 03:16:34

4 denied me. What I will say that I felt like it was 03:16:37

5 going to be a harder process for me than it would 03:16:44

6 have been for someone who didn't identify the way I 03:16:48

7 do. 03:16:51

8 Q. All right. Let's look, let's see, I think 03:16:51

9 we're done with the amended complaint. 03:17:26

10 MS. KADIVAR: Kayla, do you want to take 03:17:37

11 a break? 03:17:37

12 THE WITNESS: Yeah, we can take a 03:17:39

13 five-minute break. 03:17:41

14 MS. SHEW: Okay. Let's do this. Because 03:17:43

15 I'm afraid if we all sign off, I think we -- just 03:17:47

16 anyone that wants to close their screen can, and mute 03:17:51

17 your mic. And it's 3:17, so let's come back about 03:17:54

18 3:25 or so, just take a quick break. 03:17:54

19 (Short break.) 03:17:54

20 BY MS. SHEW: 03:17:54

21 Q. All right. We're back on the record. 03:38:01

22 Ms. Gore, when we left for the break, we were talking 03:38:03

23 about college. And I had asked you just as a general 03:38:15

24 proposition, about things that you didn't want to 03:38:19

25 even try to apply to do, because you were concerned 03:38:23